

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 5158 of 1999

Between:

M/s.Sateesh Enterprises rep. by its Partner, Mr.Vinay Kumar, s/o Shyam Sunder
Agarwal, aged 29 years, r/o Somajiguda, Hyderabad.

..... PETITIONER

AND

1. The A.P.TRANSCO rep. by its Board of Directors, Vidyut Soudha,
Hyderabad.
2. The Chief Engineer, (Electricity), Metropolitan Zone, APTRANSCO, Mint
Compound, Hyderabad.
3. The Superintending Engineer (Assessments), APTRANSCO, Humayun
Nagar, Hyderabad.
4. The Assistant Divisional Engineer (Electricity), Distribution XVI, City IV,
APTRANSCO, Balanagar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the
circumstances stated in the Affidavit filed herein the High Court may be pleased to
issue a writ of mandamus or any other appropriate writ, order or direction declaring
the proceedings of the 2nd respondent vide
Lr.No.CEE:MZ.HYD:SMRT:F.PE:D.No.2472/98, dated 15.02.1999 confirming the
orders of the 3rd respondent vide Order No.SEA/HYD/F CC 795/SAT 6478,
dt.30.12.1997 and to quash the same.

Counsel for the Petitioner: MR.C.V.NAGARJUNA REDDY

Counsel for the Respondents: SMT.M.VINOBHA DEVI

The Court made the following:

ORDER:

Heard both sides.

The petitioner, who is running an industry, filed this writ petition, *inter alia*, seeking to assail the impugned orders dated 15.02.1999 passed by the second respondent herein confirming the orders of the third respondent dated 30.12.1997 in regard to the assessment made on certain allegations found against the petitioner during an inspection conducted by the respondent authorities on 09.08.1996.

The case of the petitioner in brief is that a show cause notice was issued, *inter alia*, on the allegations that (i) the seals to the meter box, CT box and terminal covers are found to be missing (ii) one number right top cover seal is missing and (iii) the recorded consumption is very less for a connected load of 27.27 KW, and provisionally assessed the loss sustained by the Board at Rs.3,14,327/- as per orders dated 21.08.1996. Subsequently, considering the objections raised by the petitioner, final assessment was made at Rs.3,17,114.50 ps as per orders dated 30.12.1997. On appeal, the same was confirmed. Hence, this writ petition.

The learned counsel for the petitioner submits that there cannot be any such allegations as against the petitioner, more so, in view of the establishment of new meter at the request of the petitioner himself by the authorities. Therefore, the entire approach of the respondent authorities itself is wrong. Further, it also pointed out that the MRT

report, which was in favour of the petitioner, was also not taken into consideration by the respondent authorities before assessment. It is pointed out that the petitioner has already deposited 50% of the amount assessed as per the interim orders of this Court dated 15.03.1999 in W.P.M.P.No.6445 of 1999.

The learned Standing Counsel for the respondent Corporation sought to repel the aforesaid contentions.

Considering the submissions made and also on perusal of the material, the only question that falls for consideration is as to whether under the facts and circumstances of the case, the petitioner is guilty of the allegations made against him and the assessment is correct?

There is no dispute to the fact that there has been some establishment of new meter by the respondent authorities at the request of the petitioner earlier. However, during the inspection conducted on 09.08.1996 certain irregularities were found, in respect of which, after following due procedure, final assessment has been made at Rs.3,17,114.50 ps with a finding that the petitioner is guilty for those irregularities. On appeal also, the same was confirmed.

Having regard to the finding of fact arrived at by both the authorities that the petitioner is responsible for the loss sustained and guilty for those irregularities, it is not open for this Court to go into the same or to come to a different conclusion by re-appreciation of any evidence or material on record. Even accepting the said finding, it has to be seen as to whether the amount arrived at is reasonable?

The main allegation made by the respondent authorities is that the recorded consumption is not tallying with the connected load of 27.27 KW and therefore on a flat, the amount was arrived at. Even taking into account the establishment of new meter and nature of the business, it cannot be said that the amount arrived at is quite reasonable.

In view of the same and taking into consideration the fact that the inspection was conducted as long back as in the year 1996 and

the petitioner has already deposited 50% of the amount, the amount so assessed is reduced by 30%.

Accordingly, the writ petition is allowed in part reducing the final assessment i.e., Rs.3,17,114.50 ps to Rs.2,21,980/-. No costs.

23.12.2004

VGB

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, The Twenty Second Day of December, Two Thousand and Four.

To

1. The Board of Directors, A.P.TRANSCO, Vidyut Soudha, Hyderabad.
2. The Chief Engineer, (Electricity), Metropolitan Zone, APTRANSCO, Mint Compound, Hyderabad.
3. The Superintending Engineer (Assessments), APTRANSCO, Humayun Nagar, Hyderabad.
4. The Assistant Divisional Engineer (Electricity), Distribution XVI, City IV, APTRANSCO, Balanagar, Hyderabad.
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